

RESOLUTION NUMBER R-298615

ADOPTED ON NOVEMBER 3, 2003

WHEREAS, Metropolitan Transit Development Board [MTDB], Owner, City of San Diego, Owner, and CityLink Investment Corporation, Permittee, filed an application with the City of San Diego for a Planned Development Permit [PDP] No. 10198, Site Development Permit [SDP] No. 25464 and Variance No. 29754 to construct a mixed use commercial/residential project consisting of approximately 20,416 square feet retail space (approximately 17,535 square feet net leasable area) and 184 residential condominium apartment units (including eighteen affordable units) known as the Morena Vista project, located south of the intersection of Linda Vista Road and Napa Street, immediately north of Friars Road, including a non-contiguous parking area along the north side of Friars Road in the Linda Vista Community Plan area, and legally described as Parcel 1 through 3, inclusive of Parcel Map No. 9229, in the City of San Diego, State of California, filed in the Office Recorder of San Diego County, October 10, 1979 as File No. 79-422984 of Official Records; together with portions of Block 357 and 358 of Old San Diego together with portions of Riley Street, Cherry Street, and Gaines Street, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by James Pascoe in 1870, a copy of which said map was filed in the Office of the County Recorder of San Diego County, December 12, 1921, and is known as miscellaneous Map. No. 40, and all those portions of Blocks 351, 352, 358, 359, and 386 and the underlying fee of portions of Pine Street, Riley Street, Fort Stockton Drive, Cherry Street, and Greenwood Street, all being a port of Old San Diego, according to map thereof made by James Pascoe in 1870, a copy of which said map was filed in the Office of the County Recorder of San Diego

County, December 12, 1921, and is known as Miscellaneous Map No.40, together with the underlying fee of portions of Morgan Street (formerly Adams and Formerly Allen) and Custer Street (formerly Monroe) and the un-named alleys within Block 1 and 2 of Vernon Park according to the map thereof No. 569 filed on March 12, 1915 in the Office of County Recorder, and the underlying fee of a portion of Old Morena Boulevard as shown on City of San Diego Drawing 10991-2-D, all in the City of San Diego, County of San Diego, State of California, and is in the following zones: CC-3-4, IL-3-1; the North Bay Redevelopment area; Community Plan Implementation Overlay (Area A); and the Campus Parking Impact area; and

WHEREAS, on September 11, 2003, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 10198, Site Development Permit [SDP] No. 25464, and Variance No. 29754, and pursuant to Resolution No. 3421-PC, voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on November 3, 2003, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 10198, Site Development Permit No. 25464, and Variance No. 29754:

**A. PLANNED DEVELOPMENT PERMIT**

**1. The proposed development will not adversely affect the applicable land use plan.** The proposed project would implement the goals, policies and objectives of the Linda Vista Community Plan for a transit supportive mixed-use project that would locate residential and community serving commercial uses adjacent to the Morena/Linda Vista Trolley Station. The project provides retail buildings with the ability for tenants to have entries oriented toward the street, with convenient pedestrian circulation, including non-contiguous sidewalks along the retail and apartment frontages. The proposed project seeks to improve the pedestrian environment, provide a greater unity of design, and present a positive visual image for this

gateway location into the community. The architectural features of the project, including the clock tower element, varying building facades and arched entryways capture the architecture of surrounding developments and contribute to the landmark features of the project in accordance with the land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The Planned Development Permit No.10198/Site Development Permit No.25464/Variance No. 29754 (PDP/SDP/VAR) includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the City's Land Development Code in effect for this project; and as such, conditions have been determined by the decision-maker as necessary to avoid adverse impacts upon the health, safety, and general welfare of persons residing or working in the surrounding area.

The project will comply with the development regulations in effect for the subject property as described in the PDP/SDP and the regulations/guidelines pertaining to the subject property per the San Diego Municipal Code include the land and development standards of the implementing CC-3-4 and IL-3-1 zones, excepting the deviations as outlined within this permit. As described in Finding 3 below, the project incorporates implementing permit conditions regarding land use restrictions and development requirements as detailed in the approved LVCP and North Bay Redevelopment Plan.

In addition, the proposed development will be required to obtain Building Permits to show that all construction will comply with all applicable Building and Fire Code requirements. The proposed project includes mitigation measures to offset potential impacts to the environment from noise, water quality, and human health and safety as described in Mitigated Negative Declaration [MND] No.6137. Measures to achieve an interior noise level of 45 dBA Community Noise Equivalent Level [CNEL] within all habitable rooms of the new residential structures will be incorporated into the design of the structures. A report addressing any health and safety impact from excavations required for construction in areas identified with contaminants will be submitted prior to the recordation of the final map and/or issuance of the first grading permit. The County of San Diego Department of Environmental Health shall concur with the type of excavations, and health and safety plans of the report. In addition, the Permittee will assure the provision and long-term maintenance of facilities and devices which assure adequate water quality Best Management Practices to the satisfaction of the City Engineer.

**3. The proposed development will comply with the regulations of the Land Development Code.** The proposed development includes a Planned Development Permit and Site Development Permit which allow flexibility in the strict adherence to the development requirements of the underlying zone of the site. The project also includes a request for a Variance from the Inclusionary Housing Ordinance to allow the provision of eighteen affordable housing units at 80% Area Median Income [AMI] in lieu of 18.4 affordable units at 65%. The required findings can be made to support the requested Variance (see section C).

The proposed apartment building includes a deviation to the maximum building height. The Linda Vista Community Plan has designated the project site and surrounding area as an area

subject to a Community Plan Implementation Overlay Zone [CPIOZ]. The intent of the CPIOZ is to set standards for building heights, sidewalks, parking, and landscaping.

The CPIOZ limits the building height in the area to 30 feet. However, projects proposed with a discretionary permit (such as a planned development permit) may have building heights up to 45 feet with architectural projections extending an additional five feet. The proposed apartment building has architectural projections such as the elevator, penthouse, alcoves, heating, screening, cooling elements, roof access stairwell and the building itself that will exceed the 50-foot height limit by varying amounts as much as 7 feet. The clock tower, requested by community members, will exceed the height limit by approximately 17 feet.

Additionally, the development includes some deviations to building design requirements. The required lot coverage is 35% and the project has a lot coverage of 34.4%. In the parking garage, some of the parking stalls will have a depth of 17 feet, four inches instead of 18 feet and some of the driveway aisles will have a width of 23 feet, four inches instead of 24 feet. These deviations are permitted to allow for a creative, more desirable architectural development that will be beneficial to the community and is consistent with the purpose and intent of the regulations for creating the type of development recommended for this area in the Linda Vista Community Plan and the North Bay Redevelopment Project. With the exception of the deviations outlined in this permit, the proposed project will comply with the development regulations in effect for the subject property per the San Diego Municipal Code, the CC-3-4 zone.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The intent of the community plan is the development of a landmark project adjacent to the Morena/Linda Vista Trolley Station site that will anchor the southern end of the Morena Shopping Quarter. The proposed development would create a mixed-use project adjacent to the light rail station that will encourage transit use, enhance safety around the station, and provide services for transit users in conformance with the community plan. The proposed project includes 184 residential apartment and loft units and 17,535 square feet of net leaseable retail commercial space to complement the existing light rail transit stop. The significant benefit to the public is the resulting combination of pedestrian access to new residential units, commercial services, and mass transit. The project introduces into the local market residential lofts above commercial uses. The project will also provide transit riders with pedestrian access to commercial businesses as well as provide residents with pedestrian access to public transit and retail commercial services. The new commercial services will also benefit existing residents as well as the day time workers in the area.

The proposed development provides buildings designed with special consideration of the architectural character of the surrounding neighborhood, but particularly the notable developments of the Presidio to the south and the University of San Diego to the northeast. The architectural features of the project, including the clock tower element, varying building facades and arched entryways contribute to the landmark features of the project in accordance with the land use plan. Buildings within the project site provide retail tenants with the ability to have entries oriented toward the street. The project provides convenient pedestrian circulation, including non-contiguous sidewalks along the retail and apartment frontages. The proposed project seeks to improve the pedestrian environment, provide a greater unity of design, and

*L* - 298615

present a positive visual image for this part of the community, which is a gateway location into Linda Vista. The proposed development, when considered as a whole, provides a transit supportive mixed use project that the community hopes will be the catalyst for additional development in the Morena Commercial area.

The project will also provide dedicated parking for transit riders. In addition to the approximately 80 (seven shared) parking spaces onsite, the development includes an additional 120 non-contiguous parking spaces along Friars Road. The parking spaces will provide access to the trolley platform and will reduce the need for transit riders to park on residential streets in the surrounding neighborhood. Per the Joint Use Parking Agreement, CityLink will construct the improvement and MTDB will provide ongoing maintenance.

**5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.** The proposed development proposes deviations for sidewalk width, height, and parking aisle widths. The minimum sidewalk width required by the Community Plan Implementation Overlay Zone [CPIOZ] Type A is 7 feet, and the project proposes a minimum 5-foot wide sidewalk. While the sidewalks surrounding the project site are narrower in width than what is called for in the community plan, with the narrower width the project is able to provide non-contiguous sidewalks on three fronts of the project site. CPIOZ A establishes a maximum building height of 30-feet. However, the CPIOZ allows a maximum height of 45 feet with the issuance of a discretionary permit, plus an additional 5 feet for architectural projections. The maximum height of the proposed apartment building is 57 feet 10 inches (including architectural projections), and the maximum height of the proposed attached clock tower is 71 feet 5 inches. The architectural features of the project however, including the clock tower element, assist in achieving the aim of the community plan to create a landmark development that helps establish an architectural image for this part of the Morena Commercial area.

Two deviations are requested for the parking garage. The first would allow the length of many of the parking stalls to be 17 feet 4 inches, instead of the 18 feet required by Land Development Code [LDC] Section 142.0560 (b), and the second is to allow east-west aisle width of 23 feet-4 inches instead of 24 feet required by LDC Section 142.0560 (c). This deviation can be supported due to the unique nature of the size and shape of the site, the requirements for undergrounding utilities, the desire to create a pedestrian promenade to the trolley station, and the limitations therefore created on the foot print of the proposed parking structure. Without this deviation, the number of residential parking spaces would be 334, which would be 15 less than required. The aisle width on the north-south drive aisle and also on the aisle containing the accessible parking would be 24 feet as required by the LDC.

The proposed deviations are appropriate for this project because they result in a more desirable project. The proposed mixed-use commercial and residential development in the CC-3-4 zone and the CPIOZ A include deviations for the maximum height of the apartment building and clock tower. The clock tower is an architectural feature requested by members of the community and assist in achieving the aim of the community plan to create a landmark development that helps to establish an architectural image for this part of the community. The building design

deviations permit the construction of a partially underground parking garage for apartment residents. The proposed development, while deviating from development regulations of the implementing zones, provides buildings designed with consideration of the architectural character of the surrounding commercial and residential neighborhoods. Architectural features such as varying building facades, arched entry ways, tile roofs, sidewalk storefronts, clock tower, and courtyards have been added to the design of the residential and commercial development to be compatible with the prominent architecture of the University of San Diego and the Presidio in the surrounding community. The proposed development would create a mixed-use project adjacent to the light rail station to encourage transit use, enhance safety around the station, and provide services for transit users in accordance with the community plan. The proposed project seeks to improve the pedestrian environment, provide a greater unity of design, and presents a positive visual image for this gateway location into the community.

## **B. SITE DEVELOPMENT PERMIT**

**1. The proposed development will not adversely affect the applicable land use Plan.** The proposed development will not adversely affect the applicable land use plan. The proposed project would implement the goals, policies and objectives of the Linda Vista Community Plan for a transit supportive mixed-use project that would locate residential and community serving commercial uses adjacent to the Morena/Linda Vista Trolley Station. The project provides retail buildings which allow tenants the ability to have entries oriented toward the street, with convenient pedestrian circulation, including non-contiguous sidewalks along the retail and apartment frontages. The proposed project seeks to improve the pedestrian environment, provide a greater unity of design, and present a positive visual image for this gateway location into the community. The architectural features of the project, including the clock tower element, varying building facades and arched entryways capture the architecture of surrounding developments and contribute to the landmark features of the project in accordance with the land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The Planned Development Permit No.10198/Site Development Permit No.25464 [PDP/SDP] includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the City's Land Development Code in effect for this project; and as such, conditions have been determined by the decision-maker as necessary to avoid adverse impacts upon the health, safety, and general welfare of persons residing or working in the surrounding area.

The project will comply with the development regulations in effect for the subject property as described in the PDP/SDP and the regulations/guidelines pertaining to the subject property per the San Diego Municipal Code include the land and development standards of the implementing CC-3-4 and IL-3-1 zones, excepting the deviations as outlined within this permit. As described in Finding 3 below, the project incorporates implementing permit conditions regarding land use restrictions and development requirements as detailed in the approved LVCP and North Bay Redevelopment Plan.

In addition, the proposed development will be required to obtain Building Permits to show that all construction will comply with all applicable Building and Fire Code requirements. The proposed project includes mitigation measures to offset potential impacts to the environment from noise, water quality, and human health and safety as described in Mitigated Negative Declaration [MND] No.6137. Measures to achieve an interior noise level of 45 dBA Community Noise Equivalent Level [CNEL] within all habitable rooms of the new residential structures will be incorporated into the design of the structures. A report addressing any health and safety impact from excavations required for construction in areas identified with contaminants will be submitted prior to the recordation of the final map and/or issuance of the first grading permit. The County of San Diego Department of Environmental Health shall concur with the type of excavations, and health and safety plans of the report. In addition, the Permittee will assure the provision and long-term maintenance of facilities and devices which assure adequate water quality Best Management Practices to the satisfaction of the City Engineer. Per the Joint Use Parking Agreement, MTDB would be responsible for maintenance of the non-contiguous parking area, including maintenance of BMPs

**3. The proposed development will comply with the applicable regulations of the Land Development Code.** The proposed project complies with all applicable regulations of the Land Development Code, which allows deviations with issuance of a discretionary permit, and provides a Variance procedure from the requirements of the Inclusionary Housing Ordinance. The proposed development requires a Site Development Permit to deviate from the required minimum sidewalk width. The minimum sidewalk width required by the Community Plan Implementation Overlay Zone [CPIOZ] Type A is 7 feet, and the project proposes a minimum 5-foot wide sidewalk. While the sidewalks surrounding the project site are narrower in width than what is called for in the community plan, with the narrower width the project is able to provide non-contiguous sidewalks on three fronts of the project site. In addition, a Site Development Permit is required to allow a building height to exceed the 30-foot building height established in CPIOZ A. The CPIOZ allows a maximum height of 45 feet with the issuance of a discretionary permit, plus an additional 5 feet for architectural projections. A Planned Development Permit is required to deviate from the maximum 45 feet allowed by the CPIOZ. The maximum height of the proposed apartment building is 57 feet 10 inches (including architectural projections), and the maximum height of the proposed attached clock tower is 71 feet 5 inches. The architectural features of the project however, including the clock tower element, assist in achieving the aim of the community plan to create a landmark development that helps establish an architectural image for this part of the Morena Commercial area.

The project proposes the development of 184 housing units. Based on a prior agreement with the City's Redevelopment Agency, the project currently proposes the provision of eighteen affordable units on-site at 80% median income. This provision is short of the affordable housing requirements of the City's Inclusionary Housing Ordinance which requires a minimum of 10% affordable units on-site or payment of an in-lieu fee. In addition, the citywide regulations require that rental housing be provided at 65% of the Average Median Income [AMI]. The project therefore includes a request for a Variance from the requirements of the City's Inclusionary Housing Ordinance, to approve the provision of eighteen affordable housing units at 80% AMI in lieu of 18.4 affordable units at 65%. The required findings can be made to support the requested Variance (see Section C).

**C. SITE DEVELOPMENT PERMIT FINDINGS, SUPPLEMENTAL FINDINGS—  
ENVIRONMENTALLY SENSITIVE LANDS**

**1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.** The project includes a non-contiguous parking area along the north side of Friars Road which would provide 120 parking spaces for MTDB trolley users and recreational users. This area is in the identified floodway and is therefore subject to the Environmentally Sensitive Lands Regulations. The project proposes to deviate from Section 143.0130(c) of the Environmentally Sensitive Lands Regulations, which requires that the uses permitted within the floodway portion of a 100-year floodplain are those uses allowed in the OF zone. Parking lots as a primary use are not permitted within the OF zone. Although the base zone of the proposed parking area along Friars Road area is CC-3-4 on the eastern portion and IL-3-1 on the western portion, and both of these base zones allow parking as a primary use, a deviation from the Section 143.0130(c) is required in order to allow the proposed parking lot use in the floodway pursuant to the Environmentally Sensitive Lands Regulations.

The proposed MTDB non-contiguous parking lot is at a scale and location consistent with the surrounding land uses. The project is located within a zone designated for community commercial and light industrial use. The site is located on the north side of Friars Road within an area that has been previously disturbed from construction of Friar's Road, the Mission Valley West Light Rail segment, and levy construction. The proposed parking area will not expand beyond the existing area that has been previously disturbed. Currently, the site is mostly dirt with some isolated non-native plants. The project site does not support any native or sensitive plants or habitats. The parking lot would not require any realignment or construction of Friars Road that would cause impacts to the natural river habitat south of Friars Road. The Permittee is required to submit a *No Rise Certificate* to the City of San Diego that demonstrates that the base flood elevation at the proposed parking lot will not increase due to the construction of the parking lot. Given the site's flat topography, lack of any native habitat, distance from the San Diego River, and consistency with the surrounding land uses, the proposed parking lot will not result in the disturbance to environmentally sensitive lands.

**2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.** The proposed site for the non-contiguous parking is located in an area that is flat and has been previously disturbed from past construction in the area, specifically, Friars Road, the Mission Valley West light rail tracks. The site does not contain sensitive slopes or other prominent landforms. Improvements for the construction of the parking lot will minimize landform alteration because the flat site does not require substantial amounts of grading to create a parking lot surface. Cut and fill slopes will not be required for the grading of the proposed parking lot. The parking lot would be a paved surface that would be at the same surface elevation as the existing Friars Road. The parking lot would not include any structures that would adversely affect the flow of floodwaters over the site.

Implementation of the parking lot does not require the placement of any fill within the floodway. As such the proposed parking lot will not cause an increase to the existing base flood elevations.



Construction of retaining walls and a pedestrian access ramp will be constructed on the existing slopes along the project site. The retaining walls are necessary to design the parking lot in a manner that does not require any fill (soil or other material) in the floodway. The pedestrian ramp will be constructed up the side of the existing slope to avoid placing any additional fill within the floodway.

No geologic hazards were identified in the geotechnical investigation prepared for the project site. As a condition of this permit the Permittee will be required to provide plans and calculations to the City which demonstrate that the proposed improvements on this site have been designed in accordance with requirements of the Uniform Fire Code, the Uniform Buildings Code and the City Geologist. The proposed new construction will not alter natural landforms or result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

**3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** The project has been sited so that it will be located on the north side of Friars Road. The parking lot will not impact any sensitive lands. Furthermore, there are no sensitive lands adjacent to the site to be adversely impacted. The proposed parking lot is over 100 feet from the south edge of Friars Road where closest natural habitat is located. The project will not require any changes or new construction to Friars Road that would cause any sensitive habitat along the San Diego River to be adversely affected.

The proposed parking lot site is flat and does not have any sensitive slopes or natural landforms. The proposed site has been previously disturbed from past transportation related projects and does not contain any sensitive habitat areas for plants or animals. The proposed parking lot will not change the flow or direction of water within the San Diego River. Prior to issuance of the grading permit, the Permittee will be required to demonstrate that the parking lot does not result in an elevation of the existing floodway. Therefore, the proposed development will be sited and designed to avoid and prevent adverse impacts on any adjacent environmentally sensitive lands.

**4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan.** The project site does not contain any lands that have been identified as part of the City of San Diego Multi-Habitat Planning Area (MHPA). The project does not impact any sensitive plants or animals covered by the MSCP. The project is separated from the San Diego River by Friar's Road, a four lane major road, and has no connectivity with the river corridor. Therefore, the project will not conflict with any of the goals or policies of the MSCP.

**5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The proposed parking lot is located on the north side of Friars Road and does not contain any public beaches. This site is not within an area that contributes sand supply to public beaches. Construction of the parking lot will not alter the course or direction of water movements or the flow of waters within the San Diego River or any tributary to the river that would result in the erosion of public beaches. Therefore, the project will not impact the local shoreline sand supply.

**6. The nature and extent of mitigation required as a condition of the permit is**

reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. No impacts to sensitive lands as a result of the proposed parking lot were identified. Therefore, no mitigation to alleviate impacts to sensitive lands is required.

**D. SITE DEVELOPMENT PERMIT FINDINGS, SUPPLEMENTAL FINDINGS – ENVIRONMENTALLY SENSITIVE LANDS DEVIATIONS**

**1. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.** The project includes an off-site parking area along the north side of Friars Road which would provide 120 parking spaces for MTDB trolley users. This area is in the identified floodway and is therefore subject to the Environmentally Sensitive Lands regulation. The project proposes to deviate from Section 143.0130(c) of the Environmentally Sensitive Lands Regulations, which requires that the uses permitted within the floodway portion of a 100-year floodplain are those uses allowed in the OF zone. Parking lots as a primary use are not permitted within the OF zone. Although the base zone of the proposed parking area along Friars Road area is CC-3-4 on the eastern portion and IL-3-1 on the western portion, and both of these base zones allow parking as a primary use, a deviation from the Section 143.0130(c) is required in order to allow the proposed parking lot use in the floodway pursuant to the Environmentally Sensitive Lands Regulations.

No impacts to environmentally sensitive lands have been identified as a result of the proposed Metropolitan Transit District Board [MTDB] non-contiguous parking lot. As such, no mitigation measures are required for the project. The project does not adversely impact any sensitive plant or animal species, any sensitive habitats, sensitive slopes, or change the direction or flow of any rivers, streams, or tributaries. The proposed project does not conflict with the City's adopted plans for this property. The proposed parking lot is consistent with the existing CC-3-4 and IL-3-1 zoning designation on the property and does not conflict with the Multiple Habitat Planning Area or the Multiple Species Conservation Program. Therefore, no mitigation measures are required to minimize potential adverse effects on environmentally sensitive lands.

**2. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.** The proposed deviation for the proposed parking area is the minimum necessary for the construction of the parking lot that will serve as an overflow parking area for MTDB transit riders. The parking lot cannot be located in another area because it needs to be close to the existing Morena Transit Station. Siting the parking lot in another location is not feasible because the project is surrounded by existing development on three sides and Friars Road and the San Diego River on the fourth side. The proposed site for the parking area is a strip of undeveloped land between Friars Road and the existing slope with riprap that serves as a levy. A deviation to allow the parking lot in the floodway will not change the existing flow or direction of the San Diego River. The parking lot will not include habitable structures and will maintain the existing level of floodwater conveyance.

## E. VARIANCE

**A development located within an adopted redevelopment project area and subject to a San Diego Redevelopment Agency agreement may seek a variance from the requirements of the Inclusionary Affordable Housing Regulations, upon an express finding that the development is fulfilling a stated significant objective of the Redevelopment Agency's approved Five Year Redevelopment (Implementation) Plan for the Redevelopment Project Area.** The proposed Morena Vista project (development) is within the North Bay Redevelopment Project area, which was adopted May 18, 1998, by Ordinance O-18516 and is subject to a Redevelopment Agency agreement. The project site consists of approximately 6.5 acres located immediately north of Friars Road and south of the intersection of Linda Vista Road and Napa Street and a non-contiguous area along the north side of Friars Road of approximately 1.12 acres within the Linda Vista Community Plan Area. The site includes the Morena/Linda Vista trolley station and is owned by the Metropolitan Transit Development Board [MTDB]. The site is designated for Community Commercial use in the Linda Vista Community Plan. The project site presently includes a one-story commercial building along Napa Street on the northern portion of the site, in addition to the existing trolley station and associated parking.

The Morena Vista project is a transit-oriented, commercial mixed-use project which proposes to develop 184 multi-family residential condominium/apartment units, including eighteen affordable rental units, and approximately 20,416 square feet of retail space. The project includes two (2) three-story mixed use retail/residential buildings (Buildings A & B) and one (1) four-story apartment building (Building C) over below grade parking. The two mixed-use buildings would provide retail uses on the ground floor, and two-bedroom, loft-style apartment/condominium units on the second and third floors. The four-story apartment building would provide a combination of one, two and three bedroom units, with below grade parking. Proposed recreational amenities include a lap pool and spa in the landscaped interior courtyard of the apartment building, plus an exercise room, clubhouse, and business center.

The Inclusionary Affordable Housing Ordinance (Ordinance) requires that at least 10% of the housing units proposed with a project be affordable to households earning no more than 65% of the Area Median Income (AMI). A Variance from the requirements of the Ordinance is requested with the Morena Vista project in order to allow the development of eighteen 18 affordable housing units (9.78% of the total) affordable to households earning no more than 80% of the AMI, where 18.4 affordable housing units (10% of the total number of residential units) at 65 % AMI would be required by the Ordinance. As a condition of the Permit, the affordable units shall remain affordable for a period of not less than fifty-five years pursuant to Section 7 of the "Agreement Affecting Real Property" recorded on July 25, 2003, Document Number 2003-890305, which is consistent with the Ordinance. The development will include affordable rental units comparable in bedroom mix, design and overall quality of construction to the market-rate units within the development, which is consistent with the Ordinance. The requested variance can be supported based on the finding that the Morena Vista development is fulfilling several of the stated significant objectives of the Redevelopment Agency's approved Five Year Implementation Plan for the North Bay Redevelopment Project area, as described below:

- 1. The development will eliminate and prevent the spread of blight and deterioration,**

**and conserve, rehabilitate and redevelop the Project Area in accordance with the General Plan, specific plans and local codes and ordinances.** The proposed development is consistent with the General Plan and the Linda Vista Community Plan, which designates the area for residential/commercial use. The Morena Vista project would implement the goals, policies and objectives of the Linda Vista Community Plan for a transit oriented mixed-use project by locating residential and community serving commercial uses adjacent to the Morena/ Linda Vista Trolley Station. The project is designed to enhance pedestrian access and circulation between and among the various project uses and the community at large. The project will retain the community's character by encouraging orderly, sequential development compatible in its intensity with surrounding and future land development.

The development provides retail buildings that would allow tenants to have entries oriented toward the street, with convenient pedestrian circulation, including non-contiguous sidewalks along the retail and apartment frontages. The architectural design of the proposed development is Spanish style in keeping with the character of the nearby University of San Diego, the Presidio, and Old Town. The Morena Vista project would improve the pedestrian environment of the community, provide a greater unity of design, and present a positive visual image for this gateway location into the community.

The subject development will assist in the elimination of one or more blighting conditions inside the North Bay Redevelopment Project Area. The proposed development is consistent with the Implementation Plan adopted for the Project Area pursuant to Health and Safety Code Section 33490, in that:

- a. The development will address buildings and lots that are substantially underused, due to substandard design, deferred maintenance, inadequate public improvements, parcels of inadequate size, and/or other factors.
- b. The development will address impaired investment.
- c. The development will address inadequate parking.
- d. The development will address excessive vacant or underutilized lots.

**2. The development will improve, promote and preserve the positive neighborhood characteristics in North Bay, while correcting physical and economic deficiencies in the community.** The Morena Vista project is a transit-oriented, commercial mixed-use project which proposes to develop 184 multi-family residential condominium/apartment units, including 18 affordable units, and approximately 20,416 square feet of retail space. The project includes two (2) three-story mixed use retail/residential buildings (Buildings A & B) and one (1) four-story apartment building (Building C) over below grade parking. The two mixed- use buildings would provide retail uses on the ground floor, and two-bedroom, loft-style apartment/condominium units on the second and third floors. The four story apartment building would provide a combination of one, two and three bedroom units, with below grade parking. Proposed recreational amenities include a lap pool and spa in the landscaped interior courtyard of the apartment building, plus an exercise room, clubhouse, and business center.

Design features of the project include an open plaza with seating at the intersection of Napa Street and Linda Vista Road, a seventy-one foot tall clock tower attached to the apartment building in the interior of the project site, and a pedestrian pathway connecting the open plaza to the trolley station. The project would also provide directional displays to guide transit riders and pedestrians through the project and to direct them to commercial, entertainment, and other venues in the area. The project includes enhanced landscaping, and all utilities would be undergrounded by the City of San Diego. These features will serve to improve, promote and preserve the positive neighborhood characteristic in North Bay, while correcting physical and economic deficiencies in the community.

The proposed project will be required to obtain Building Permits to ensure that all construction will comply with all applicable Building and Fire Code requirements. The project includes mitigation measures to offset potential impacts to the environment from noise, water quality and human health and safety as described in Mitigated Negative Declaration No. 6137.

**3. The development will promote and enhance diverse housing opportunities by improving housing stock/type and expanding affordable housing opportunities.** Specifically, the development will provide eighteen units which will be restricted for occupancy for fifty-five years and at rates affordable to households earning no more than 80 percent of the area median income [AMI], as adjusted for household size. The development provides for a mixed use project adjacent to existing public mass transit locations, which results in: combining pedestrian access to new residential units, commercial services and mass transit; introducing into the local market residential lofts above commercial services; and providing transit riders with pedestrian access to commercial businesses as well as project residents with pedestrian access to public transit and retail commercial services.

As a matter of record, the Redevelopment Agency (Agency) is providing a total project subsidy of \$4,800,000 funded over a period of 18 years to CityLink Investment Corporation: \$1,500,000 for eighteen rental units at 80 percent area median income and \$2,300,000 for site preparation and permitting costs related to the residential development. The Agency will lease the on-site parking lot from MTDB for \$3,000,000, which is payable over 9 years. The Agency will also provide an additional 120 off-site spaces along Friars Road for MTDB trolley parking. These funds will help off-set the upfront costs associated with project improvements.

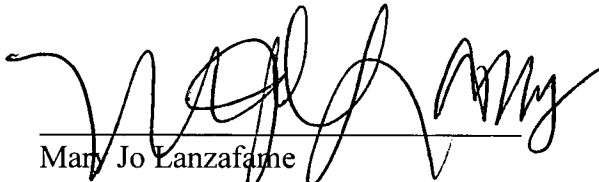
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Planned Development Permit No. 10198, Site Development Permit No. 25464 , and Variance No. 29754 is granted to Metropolitan Transit Development Board, Owner, and

CityLink Investment Corporation, Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By



Mary Jo Lanzafame  
Deputy City Attorney

MJL:cdk  
11/18/03  
02/03/04 COR. COPY  
Or.Dept: DSD  
R-2004-574  
Reviewed by Vicky Gallagher

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES DEPARTMENT  
PERMIT INTAKE, MAIL STATION 501

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED DEVELOPMENT PERMIT NO.10198  
SITE DEVELOPMENT PERMIT NO. 25464  
VARIANCE NO. 29754  
**MORENA VISTA - PROJECT NO. 6137 [MMRP]**  
CITY COUNCIL

This Planned Development Permit No.10198/Site Development Permit No. 25464 is granted by the Council of the City of San Diego to Metropolitan Transit Development Board [MTDB], a California public agency, Owner, the City of San Diego, Owner, and CityLink Investment Corporation, a California Corporation, Permittee, pursuant to San Diego Municipal Code [SDMC] Sections 126.0602 and 126.0502. The project site consists of an approximately 6.5 acre property located south of the intersection of Linda Vista Road and Napa Street, immediately north of Friars Road in the Linda Vista Community Plan area and a non-contiguous area of approximately 1.12 acres along the north side of Friars Road in the CC-3-4 and IL-3-1 zones of the North Bay Redevelopment area; Community Plan Implementation Overlay (Area A); and the Campus Parking Impact area. The project site is legally described as Parcel 1 through 3, inclusive of Parcel Map No. 9229, in the City of San Diego, State of California, filed in the Office Recorder of San Diego County, October 10, 1979 as File No. 79-422984 of Official Records; together with portions of Block 357 and 358 of Old San Diego together with portions of Riley Street, Cherry Street, and Gaines Street, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by James Pascoe in 1870, a copy of which said map was filed in the Office of the County Recorder of San Diego County, December 12, 1921 and is known as miscellaneous Map. No. 40, and all those portions of Blocks 351, 352, 358, 359, and 386 and the underlying fee of portions of Pine Street, Riley Street, Fort Stockton Drive, Cherry Street, and Greenwood Street, all being a port of Old San Diego, according to map thereof made by James Pascoe in 1870, a copy of which said map was filed in the Office of the County Recorder of San Diego County, December 12, 1921, and is known as Miscellaneous Map No. 40, together with the underlying fee of portions of Morgan Street (formerly Adams and Formerly Allen) and Custer Street (formerly Monroe) and the un-named alleys within Block 1 and Block 1 and 2 of Vernon Park according to the map thereof No. 569 filed on March 12, 1915, in the Office of County Recorder, and the underlying fee of a portion of Old Morena Boulevard as shown on City of San Diego Drawing 10991-2-D, all in the City of San Diego, County of San Diego, State of California, and is in the following zones: CC-3-4, IL-3-1; the North Bay Redevelopment area; Community Plan Implementation Overlay (Area A); and the Campus Parking Impact area.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and/or Permittee to develop a mixed use commercial/residential project consisting of approximately 20,416 square feet retail space (approximately 17,535 square feet net leasable area) and 184 residential condominium apartment units (including eighteen affordable rental units), described and identified by size, dimension, quantity, type, and location on the approved exhibits marked Exhibit "A", dated November 3, 2003, on file in the Development Services Department. Exhibit "A" is identified as follows (20 sheets total):

Sheet 1 (G-101):	Code Data Drawings Index
Sheet 2 (A-101):	Site Plan
Sheet 3 (A-201):	Garage & First Floor Plan
Sheet 4 (A-202):	Second & Third Floor Plan
Sheet 5 (A-203):	Fourth Floor and Roof Plan
Sheet 6 (A-301):	Apartment Building Elevations
Sheet 7 (A-302):	Retail/Loft Elevations
Sheet 8 (A-401):	Apartment Building Sections
Sheet 9 (A-402):	Retail/Loft Sections
Sheet 10 (A-501):	Unit Plans
Sheet 11(A-502):	Unit Plans
Sheet 12 (L-1):	Landscape Plan
Sheet 13(L-2):	Landscape Plan
Sheet 14 (L-3)	Landscape Plan
Sheet 15:	Tentative Map/PRD/PCD
Sheet 16:	Tentative Map/PRD/PCD
Sheet 17:	Preliminary Grading Plan
Sheet 18:	Easement and Utilities
Sheet 19:	Existing Boundary and Topography
Sheet 20:	Slope Analysis

The project or facility shall include:

- a. Building A, a three-story mixed-use building with approximately 9,272 square feet retail area on the ground floor and ten 2-bedroom residential lofts/condominiums occupying the second and third floors;
- b. Building B, a three-story mixed-use building with approximately 11,144 square feet retail area on the ground floor and twelve 2-bedroom residential lofts/condominiums occupying the second and third floors;
- c. Building C, a four-story apartment/condominium building with a total of 162 residential units, over below-grade parking, an attached clock tower, and recreational amenities including a lap pool, spa, exercise room, clubhouse, and business center;
- d. Eighteen of the residential units shall be affordable housing units. A Variance from the requirements of the Inclusionary Housing Ordinance is approved with this project to allow the provision of eighteen affordable housing units at rates affordable to households earning no more than 80% of the area median income [AMI], where 18.4



affordable housing units at 65 % AMI would be required by the Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code);

- e. Landscaping (planting, irrigation and landscape related improvements);
- f. 614 off-street parking facilities, including 200 spaces for MTDB trolley station parking, 120 of which are provided in the non-contiguous area along Friars Road; and
- g. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

**STANDARD REQUIREMENTS:**

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. The Owner/Permittee shall secure all necessary building permits. The Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A". No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted. However, the City Manager may grant a permit or permits to the Owner/Permittee for work necessary to accomplish the non-contiguous parking lot along the north side of Friars Road, site-grading, demolition, public improvements, foundations, and other work necessary to expedite completion of the non-contiguous parking lot, and overall project construction.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property. However, the City Manager may grant a permit or permits to the Owner/Permittee for work necessary to accomplish the non-contiguous parking lot along the north side of Friars Road, site-grading, demolition, public improvements, foundations and other work necessary to expedite completion of the non-contiguous parking lot, and overall project construction.

11. This Permit shall become effective with recordation of the corresponding final subdivision map for the project site. However, the City Manager may grant a permit or permits to the Owner/Permittee for work necessary to accomplish the off-site parking, site-grading, demolition, public improvements, foundations and other work necessary to expedite completion of MTDB's off-site parking lot, and overall project construction.

12. This Permit may be developed in phases including grading, off-site parking, site-work, retail/lofts and apartments. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits

approved for each respective phase (per Exhibit "A", dated November 3, 2003). However, it is agreed that the Owner/Permittee may market, negotiate and execute leases to retail tenants prior to construction being complete for possible occupancy upon the issuance of certificate(s) of occupancy.

13. At all bus stops within the project area, if any, the Permittee shall be responsible for installing sidewalk improvements where needed to comply with Americans with Disability Act [ADA] requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

14. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

15. As conditions of Planned Development Permit No.10198/Site Development Permit No. 25464 and Tentative Map 10197, the mitigation measures specified in the MMRP, and outlined in the Mitigated Negative Declaration, Project No. 6137, SCH NO. 2003061131 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

16. The Owner/Permittee shall comply with the MMRP as specified in the Mitigated Negative Declaration, Project No. 6137, SCH satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Hydrology/Water Quality  
Human Health/Public Safety.

17. The MMRP shall require a deposit of \$1,200 to be collected prior to the issuance of discretionary permits to cover the City's costs associated with implementation of the MMRP.

18. A Job Order number open to the Land Development Review Division of the Development Services Department shall be required to cover the Land Development Review Division's cost associated with the implementation of the MMRP.

**AFFORDABLE HOUSING REQUIREMENTS:**

19. Pursuant to Municipal Code Section 142.01304, a variance from the requirements of the Inclusionary Housing Ordinance is included with this project. The variance will allow for eighteen (18) affordable housing units (the "Affordable Units") restricted for occupancy at eighty percent (80%) of the area median income ("AMI"), where 18.4 units at 65% AMI would be required by the Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

A. Applicant shall assure the construction and occupancy of an affordable housing project consisting of eighteen (18) units to be constructed in Buildings A and B of Lot 1 and Building C of Lot 2, as shown on the Tentative Map. Prior to the issuance of any building permits for residential units, the Applicant shall execute a Declaration of Covenants, Conditions, and Restrictions, with the Executive Director of the Housing Authority of the City of San Diego, or designee, addressing the following issues:

1. The 18 Affordable Units will be geographically dispersed throughout the project and will be proportionate to the market rate unit mix.
2. Rents will be calculated based upon 30% of 80% of area median income, and adjusted for household size and utilities as determined by the San Diego Housing Commission based upon the index published from time to time by the United States Department of Housing and Urban Development for San Diego area median income. For unrelated roommates, household income should be calculated by adding individual incomes together. Rents will be updated on a periodic basis.
3. Eligible tenants for the Affordable Units will not include relatives of the developer, employees of the developer, or owners of real property.
4. The eligibility of tenants will be monitored and enforced on an annual basis.

B. The Declaration will be recorded against the Applicant's leasehold interest.

C. Applicant agrees that neither it nor its agents, successors, or assigns shall discriminate against any tenant or prospective tenant of the Affordable Units on the basis of race, color, religion, sex, national origin, age, physical handicap, or the fact that a prospective tenant or tenant has a child or children. In this regard Applicant shall provide an affirmative marketing program consistent with City of San Diego Council Policy 600-20.

#### **ENGINEERING REQUIREMENTS:**

20. Prior to the issuance of any building permits, the Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

21. The drainage system proposed for this development, as shown on the site plan, is subject to approval by the City Engineer.

22. Prior to building occupancy, the Permittee shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

23. A portion of this project has been identified as being within the floodway of a Special Flood Hazard Area. No increases to base flood elevations are allowed. Prior to the issuance of the grading permit for the off-site parking along Friars Road and the associated pedestrian pathway, a Registered Professional Engineer shall submit a no rise certification along with a detailed engineering analysis to substantiate the certification. The analysis is subject to the approval of the City Engineer.

**STORMWATER REQUIREMENTS:**

24. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08-DWQ and the Municipal Storm Water Permit, Order No. 2001-01(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.

25. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99-08-DWQ.

26. Prior to the issuance of any construction permit, the Subdivider shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications, for the applicable construction phase, satisfactory to the City Engineer..

27. Prior to the issuance of any construction permit the Subdivider shall incorporate and show the type and location of all post-construction Best Management Practices [BMPs] on the final construction drawings for the applicable construction phase, consistent with the approved Water Quality Technical Report, and satisfactory to the City Engineer.

28. Prior to the issuance of any construction permit, the Subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance for the applicable construction phase, satisfactory to the City Engineer.

**LANDSCAPE REQUIREMENTS:**

29. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

30. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A", Landscape Concept Plan, on file in the Office of the Development

Services Department These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."

31. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A", Landscape Concept Plan, on file in the Office of the Development Services Department.

32. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet area around each tree (excluding Palm trees) which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

33. Prior to issuance of any engineering permits for grading, construction documents for the revegetation and hydroseeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to this Permit (including environmental conditions) and Exhibit "A", on file in the Office of the Development Services Department.

34. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

35. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

36. The Permittee or subsequent Owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

37. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy.

#### **PLANNING/DESIGN REQUIREMENTS:**

38. No fewer than 593 off-street parking spaces (project provides 614) shall be maintained on the property at all times in the approximate locations shown on Exhibit "A" of November 3, 2003. This total includes 120 off-site parking along Friars Road. Parking spaces shall comply at

all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

39. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

40. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

41. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

42. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

43. No building additions, including patio covers, shall be permitted unless approved by the the City Manager. Patio covers and other additions such as carports and decorative trellises may be permitted only if they are consistent with the architecture of the development.

44. All signs associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A"); or
- b. Citywide sign regulations;
- c. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

45. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

46. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

47. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

48. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

49. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a enclosed architecturally integrated structure which may include grillwork, louvers, and latticework.

50. No merchandise, material, or equipment shall be stored on the roof of any building.

51. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked in Exhibit "A".

52. For the commercial/retail portion of the project, at least 40% of the area of first-story building walls that face a public street shall be devoted to pedestrian entrances, display windows, or windows offering views into the building's interior.

#### **WASTEWATER REQUIREMENTS:**

53. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

54. Prior to the issuance of any on-site building or grading permits, the developer shall abandon the on-site public sewer main and relocate the sewer facilities satisfactory to the Director of the Metropolitan Wastewater Department. The associated public sewer easement shall be vacated and a new sewer and access easement granted satisfactory to the Director of the Metropolitan Wastewater Department.

55. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be re-designed.

56. The developer shall provide evidence, satisfactory to the Director of the Metropolitan Wastewater Department, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of on-site private sewer mains that serve more than one ownership.



57. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

**WATER REQUIREMENTS:**

58. Prior to the issuance of the first building permit, the Owner/Permittee shall assure, by permit and bond, the design and construction of public 12-inch water facilities traversing the project site, connecting to existing public water facilities within the Linda Vista Road and Napa Street rights-of-way, in a manner satisfactory to the Director of the Water Department and the City Engineer. Public water mains shall be located a minimum of five (5) feet from the face of any curb and a minimum of ten (10) feet from any below grade structures, with the exception of public sewer facilities.

59. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall grant a 26-foot wide water easement over the on-site public water facilities in a manner satisfactory to the Director of the Water Department and the City Engineer. Easements shall cover entire drive aisles and all water appurtenances.

60. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) and the removal of all existing unused water services adjacent to the project site, in a manner satisfactory to the Director of the Water Department and the City Engineer.

61. Prior to the issuance of any building permits, the Owner/Permittee shall apply for plumbing permit(s) for the installation of private back flow prevention devices [BFPDs] on all water services to the development, including all domestic, fire and irrigation services, in a manner satisfactory to the Director of the Water Department and the City Engineer. BFPDs shall be located above grade and outside of any structure.

62. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director and the City Engineer. Fire hydrants shall be located a minimum of five feet from any structures above, at, or below grade.

63. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall design and construct new public water facilities, into acceptable alignments and right-of-way, in the event any public water facility adjacent to the project site loses integrity due to the construction and grading activities associated with this development, in a manner satisfactory to the Director of the Water Department and the City Engineer.

64. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall assure, by permit and bond, additional relocations of public water facilities, as required to maintain appropriate grade and alignments of such facilities within the adjacent rights-of-way in a manner satisfactory to the Director of the Water Department and the City Engineer. Actual public water improvements shall be determined at final engineering.

65. Prior to the issuance of any certificates of occupancy, the public water facilities, including domestic, fire and irrigation services necessary to serve this development, shall be complete and operational in a manner satisfactory to the Director of the Water Department and the City Engineer.

66. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current editions of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities, as shown on Exhibit "A", shall be modified at final engineering to comply with standards.

**INFORMATION ONLY:**

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego by Resolution No. R-\_\_\_\_\_ on November 3, 2003.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

---

**The undersigned Permittee**, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

**Metropolitan Transit Development  
Board, a California public agency,]**  
Owner/Permittee

By \_\_\_\_\_

**City of San Diego**  
Owner/Permittee

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**

Reviewed by Vicky Gallagher